

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JASON L. SANDERS,

Plaintiff,

Case No. 1:24-cv-115

v.

Honorable Ray Kent

UNKNOWN WARD et al.,

Defendants.

ORDER DENYING LEAVE TO PROCEED
IN FORMA PAUPERIS ON APPEAL

This is a civil rights action brought by a state prisoner under 42 U.S.C. § 1983. Plaintiff has consented to a United States magistrate judge conducting all proceedings in this case, including entry of a final judgment and all post-judgment motions.¹ (ECF No. 1, PageID.12.) The Court partially dismissed Plaintiff's complaint on May 10, 2024. (ECF Nos. 10, 11.) The Court then entered an order staying the case and referring it to the Court's *Pro Se* Prisoner Civil Rights Litigation Early Mediation Program. (ECF No. 12.) Thereafter, Plaintiff filed a notice of appeal (ECF No. 17) and a motion to proceed *in forma pauperis* on appeal (ECF No. 18).

Pursuant to 28 U.S.C. § 1291, the courts of appeals "shall have jurisdiction of appeals from all final decisions of the district courts of the United States." 28 U.S.C. § 1291. There has been no such final decision in this case, and Plaintiff continues to have claims pending in this Court. Therefore, the Court now certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal would not be taken in good faith.

¹ (See Op., ECF No. 10, PageID.63–65.)

Plaintiff is informed that within 28 days from the date of this notice, he must submit the \$605.00 filing fee or he must file in the United States Court of Appeals for the Sixth Circuit a motion for leave to proceed *in forma pauperis*, a certified copy of a prisoner trust account statement, and an affidavit of indigence. 28 U.S.C. § 1915(a)(2); *McGore v. Wrigglesworth*, 114 F.3d 601, 609 (6th Cir. 1997), *overruled in other part by LaFountain v. Harry*, 716 F.3d 944, 951 (6th Cir. 2013).

Plaintiff is also notified that if he fails to pay the filing fee or to file the required documents as described above, the Sixth Circuit may dismiss his appeal for failure to prosecute under Rule 3 of the Federal Rules of Appellate Procedure. *See McGore*, 114 F.3d at 610. In that case, this Court will assess the entire filing fee, which will be payable in full regardless of the previous dismissal. *See id.* In addition, the appeal will not be reinstated even if Plaintiff subsequently pays the filing fee or requests to proceed as a pauper. *See id.*

Accordingly,

IT IS ORDERED that Plaintiff's motion to proceed *in forma pauperis* on appeal (ECF No. 18) is **DENIED**, and Plaintiff must seek leave to appeal *in forma pauperis* in the Sixth Circuit Court of Appeals or pay the filing fee as stated above.

Dated: August 5, 2024

/s/ Ray Kent
Ray Kent
United States Magistrate Judge

SEND REMITTANCES TO:

Clerk, U.S. District Court
399 Federal Bldg.
110 Michigan St., N.W.
Grand Rapids, MI 49503

All checks or other forms of payment shall be payable to "Clerk, U.S. District Court."